

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

CLERK'S OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED

MAY 23 2008

JOHN F. CORCORAN, CLERK
BY: *J. Corcoran*
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AMENDED JUDGMENT

On motion (Doc. No. 139) by plaintiff for judgment on the Third Amended Complaint (Doc. No. 134) and on the unopposed motion (Doc. 148) by plaintiff to amend the Judgment (Doc. No. 144) entered on May 15, 2008, the Court **ORDERS** that the Judgment (Doc. No. 144) is amended to read as follows:

1. By agreement of defendants Gilbert, Fortner, and Ison, this judgment only awards judgment for acts or omissions of defendants Gilbert, Fortner, and Ison while these defendants were acting in an authorized or proprietary capacity, and while these defendants were acting in the course and scope of their employment or authorization with defendant Southwest Virginia Regional Jail Authority.

2. By agreement of defendants Gilbert, Fortner, and Ison, this judgment only awards judgment against defendants Gilbert, Fortner, and Ison for recklessness of the type that 42 U.S.C. § 1983 prohibits. This judgment is **NOT** against defendants Gilbert, Fortner, and Ison for malicious acts, willful acts, wanton acts, and/or criminal acts. In addition, this judgment is **NOT** in an action against defendants

Gilbert, Fortner, and Ison designed to determine whether discipline or other sanction for misfeasance or malfeasance is appropriate, or otherwise to determine these defendants' fitness to hold office or continue employment.

3. For the conduct of defendants Gilbert, Fortner, and Ison on or about April 8 – 9, 2007 toward plaintiff, which is conduct that defendants Gilbert, Fortner, and Ison agree falls within the described conduct contained in Paragraphs No. 1 and No. 2 of this judgment, judgment is awarded against defendants Gilbert, Fortner, and Ison—jointly and severally—and in favor of plaintiff in the amount of \$1,000,000.00 plus 15% attorney's fees, for a total judgment in the amount of \$1,150,000.00.

4. Plaintiff filed a Bill of Costs (Doc. No. 146) in the amount of \$1,205.18. The clerk has taxed these costs to defendants Gilbert, Fortner, and Ison in Doc. No. 147. Since these defendants have no objection to these costs, judgments is also awarded against defendants Gilbert, Fortner, and Ison—jointly and severally—and in favor of plaintiff for these costs in the amount of \$1,205.18.

5. Because of Paragraphs No. 3 and No. 4 of this judgment, judgment is awarded against defendants Gilbert, Fortner, and Ison—jointly and severally—and in favor of plaintiff in the total amount of \$1,151,205.18. Judgment interest at the rate of 1.94% will accrue on this judgment beginning May 15, 2008.

ENTER this 22d day of May, 2008.



Judge

A handwritten signature in black ink, appearing to read "James P. Jones". Below the signature, the word "Judge" is printed in a small, sans-serif font.